IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 3864 of 1995

BAJRANG LAL
V/S
STATE & ORS

Mr. RS GILL, for the appellant / petitioner

Mrs. RR KANWAR, AGA, for the respondent

Date of Order : 21.5.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

The petitioner, by this petition, has prayed for a direction to quash Annex.4 so far it relates to Square No.209/461 of Chak 9 A.S. (B). Then a restrain is sought against the SDO, Allotting Authority from making special allotment of the above land in favour of any other person, and to allot the land to the petitioner on the basis of his having temporary cultivation lease holder, or otherwise under Rule 13A, and a restrain is also sought against petitioner's dispossession.

The necessary facts are that the petitioner claims to be allotted the above land in question on temporary cultivation lease vide Annex.1, which is of 22.4.73. Then the petitioner's father Sheo Karan passed away, and he applied for permanent allotment on 21.8.91. However, during

pendency of the writ petition, it was disclosed that the land has been notified under Rule 13A for special allotment vide Gazette Notification dated 14.10.88. According to the petitioner, since he was temporary cultivation lease holder, the land could not be allotted to anybody else. However, one Mukhtyar Singh filed an application for allotment of that land to him, which application is still pending. The petitioner in the meantime, sought interim stay order from the SDO, restraining his dispossession, however, that was recalled by the SDO, and appeal against that order was also dismissed. It is, in these circumstances, the above relief has been claimed.

In the reply, stand has been taken that of course, the petitioner's father was allotted temporary cultivation lease for one year in the year 1973, but then that lease was never renewed, and expired by efflux of time, and therefore, the petitioner's status is no better than the trespasser. That being the position, the land was correctly notified for special allotment under Rule 13A.

From the perusal of the pleadings of the respondents also, it is clear that the application filed by the petitioner for permanent allotment, so also application filed by Mukhtyar Singh are both said to be pending. It is also clear that the land in question has not been allotted so far to anybody.

In these circumstances, since the petitioner's temporary lease is not shown to have been extended, I do not find any impediment in the issuance of notification, Annex.4, so as to require any interference therein. Thereafter the question is about the petitioner's entitlement to have the land allotted, or about Mukhtyar Singh's right to have the land allotted. Since both the applications are pending, it would not be appropriate for me to go into this question, as to who is entitled to have the land allotted, and the matter is required to be left to be decided by the concerned Allotting Authority in accordance with law.

The writ petition is, accordingly, disposed of with a direction to the concerned Allotting Authority to decide the allotment applications wholly in accordance with law and most expeditiously.

(N P GUPTA),J.

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